

**State Senate
State of South Dakota**

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Office of the Minority Leader

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July 17, 2008

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Mr. Steven M. Pirner, Department Secretary
South Dakota Department of Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES,
SECRETARY'S OFFICE

RE: Environmental Impact Statement for Proposed Hyperion Refinery & Electric
Generating Plant

Dear Mr. Pirner:

I am writing to strongly encourage the Department of Environment and Natural Resources to prepare an Environmental Impact Statement for the Proposed Hyperion Energy Center, pursuant to the South Dakota Environmental Policy Act, SDCL Chapter 34A-9-4. The Department should retain a highly-qualified independent consulting firm to conduct the Environmental Impact Statement, and the Department should "assess a fee against" Hyperion, as provided by the statute to pay for the contractor's and the Department's work in preparing the Environmental Impact Statement. "Any agency which prepares, or has prepared by contract, an environmental impact statement pursuant to subdivision 34A-9-2 (3) shall assess a fee against the person seeking a lease, permit, license, certificate or other public entitlement for the preparation of the statement." SDCL Chapter 34A-9-4.

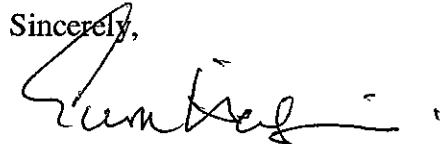
"The purpose of an environmental impact statement is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of the action might be minimized, and to suggest alternatives to the action." SDCL Chapter 34A-9-4. The massive new Hyperion project includes a 400,000 barrel per day refinery and an approximately 200 MW integrated gasification combined cycle ("IGCC") power plant. Both will have substantial impacts on the air, water, land, and overall environment and public health of South Dakota and beyond. A comprehensive study of the environmental impacts is critical to ensuring the health of South Dakota's residents, our environment and our economy.

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The list of environmental impacts from the proposed Hyperion Energy Center is long and varied. For example, Hyperion states that its Energy Center will produce approximately 19 million tons per year ("tpy") of carbon dioxide, with no current plans to address this harmful global warming pollution. Hyperion Energy Center Prevention of Significant Deterioration (PSD) Permit Application at Appendix H "Carbon Dioxide Summary" (December 2007). With respect to other air pollutants, the applicant has represented that the project has the potential to emit nearly 2,000 tpy of carbon monoxide, 800 tpy of nitrogen oxides and 900 tpy of sulfur dioxide, as well as over 1,000 tpy of harmful fine particulate matter per year. *Id.* at 29. It is not clear whether these figures include emissions from the operation of flares at the refinery, which can also result in additional pollution and air quality violations. Wastewater from the refinery can produce significant impacts as can the water needs of the IGCC plant. Other impacts that must be assessed include, but are not limited to, those from waste disposal, climate change, and construction of pipelines necessary to transport tar sands crude from Canada.

Clearly, the impacts of the Energy Center will be "significant." It is precisely these types of large-scale projects with significant impacts for which the Legislature adopted the South Dakota Environmental Policy Act to address. An Environmental Impact Statement is necessary to fully understand the impacts of, and alternatives to, the Energy Center in order to make an informed decision. Thank you for your consideration of this request, and please let me know what actions the Department is prepared to take on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Heidepriem", written over a horizontal line.

SCOTT HEIDEPRIEM
Senate Minority Leader
Sioux Falls, South Dakota